

FILED

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

GEORGE WILLIAM PARRISH,)	CV 12-20-M-DLC-JCL
)	
Petitioner,)	
)	
vs.)	ORDER
)	
LEROY KIRKEGARD; ATTORNEY)	
GENERAL OF THE STATE OF)	
MONTANA,)	
)	
Respondents.)	
_____)	

Petitioner George William Parrish filed this action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on February 9, 2012, and recommended dismissing Parrish's petition for lack of jurisdiction because it is an unauthorized second petition. Petitioner did not timely object to the Findings and

Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

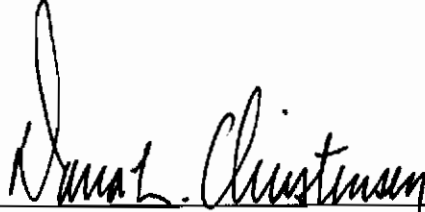
Parrish filed his first habeas petition on April 11, 2011, and made the same claim that he makes in his second, instant petition. His first petition was dismissed with prejudice as time-barred on July 27, 2011. Judge Lynch found that Parrish did not have jurisdiction to file the current petition because he has not received leave from the Ninth Circuit Court of Appeals. See 28 U.S.C. § 2244(b)(3). After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (dkt #4) are adopted in full. Parrish’s Petition (dkt #1) is DISMISSED for lack of jurisdiction as an unauthorized second or successive petition under 28 U.S.C. § 2244(b)(3)(A).

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

The Clerk of Court is directed to enter a judgment of dismissal.

Dated this 9th day of March, 2012.



Dana L. Christensen, District Judge
United States District Court